

OM 16-015

Effective Date: 24 Mar 2016

By Order of the Acting Assistant Director
Stewart D. Smith, DHSc/s/

TO: IHSC Public Health Service (PHS) Commissioned Corps Officers, Civilian Federal Employees and Contract Personnel

SUBJECT: Off-Site Medical Care Monitoring and Case Management (Medical Case Management Unit)

1. **PURPOSE:** The purpose of this Operations Memorandum (OM) is to set forth the guidance for the Medical Case Management Unit (MCMU) related to off-site medical care monitoring and case management services.
2. **APPLICABILITY:** This OM applies to all Immigration and Customs Enforcement (ICE) Health Service Corps (IHSC) federal and non-federal staff working on IHSC Medical Case Management activities.
3. **AUTHORITIES AND REFERENCES:**
 - 3-1. Title 8, Code of Federal Regulations, section 235.3 (8 CFR 235.3), Inadmissible Aliens and Expedited Removal;
 - 3-2. Section 232 of the Immigration and Nationality Act (8 USC 1222), Detention of aliens for physical and mental examination;
 - 3-3. Title 8, Code of Federal Regulations, section 232 (8 CFR 232), Detention of Aliens for Physical and Mental Examination;
 - 3-4. Section 322 of the Public Health Service Act (42 USC 249(a)), Medical Care and Treatment of Quarantined and Detained Persons;
 - 3-5. Title 42, U.S. Code, Public Health Service Act, Section 252 (42 USC 252); Medical Examination of Aliens.
4. **GUIDANCE:** The IHSC MCMU provides case management services for detainees in ICE custody who are housed in facilities not staffed by IHSC.

- 4-1. Availability of healthcare outside the continental United States (OCONUS).** Field Medical Coordinators (FMCs) route these requests to the IHSC Behavioral Health Unit (BHU) staff.
- 4-2. Continuity of healthcare continental United States (CONUS)**
- a. Continuity of healthcare is the process of providing suggestions for continuation or follow up care after a detainee has been released from Immigration custody in the United States. The detainees identified for continuity of care suggestions are those that have started medical or mental health treatments while in custody and are recommended to continue treatment or for follow-up care after release from custody. Detainees requiring continuity of healthcare suggestions are at the discretion of IHSC leadership.
 - b. FMCs provide suggestions for healthcare providers or facilities that may be able to provide continuity of healthcare for ICE detainees being released in the United States. The information is provided to the ICE ERO Field Office staff to provide to the detainee. The detainee will sign the form acknowledging receipt of the information. The form will be returned to the FMC. Detainees are responsible for establishing any necessary medical appointments.
- 4-3. Stay of removal requests**
- a. Stay of removal requests may be submitted by ICE detainees requesting that their removal be cancelled for a variety of reasons. One such reason is for medical issues for themselves or their family.
 - b. FMCs route the requests with the appropriate documentation to the IHSC Regional Clinical Director (RCD).
- 4-4. Infection Control/Infectious Disease/Tuberculosis.** FMCs follow the procedures in the IHSC Tuberculosis Case Management and Public Health Coordination Guide for IHSC Headquarters Staff.
- 4-5. Medical Care**
- a. Detainees who need specialty care are referred to the necessary specialty provider at IHSC expense. FMCs/Managed Care Coordinators (MCCs) are responsible for reviewing and approving these healthcare requests for specialty care. However, in most circumstances, the payment for these referrals must be pre-authorized by IHSC MCMU staff prior to the appointment date through the IHSC Medical Payment Authorization Request (MedPAR) system. Refer to 03-19 *Medical Care Payment Authorization*.

(1) Legal Issues – Contractor's Exception:

- a. Logue v. United States, 412 U.S. 521, 528 (1973)
- b. Under the Contractor Exclusion, the United States is not accountable for the negligence of IGSA employees as the IGSA is a "contractor" and not a federal agency and the federal agency has no authority to control the activities of the IGSA employees.
- c. If the day to day operations of a contractor's facility are in the hands of the contractor so that the government's role is limited to payment of services intended to induce the contractor to provide good service, then the contractor's negligence does not extend liability to the United States.
- d. If the government controls the detailed physical performance of the contractor, then the contractor's exception will not shield the United States from liability.

(2) Reimbursement Rates:

- a. Authorized payments for health care services and durable medical equipment (DME) will be reimbursed in accordance with Title 18, Part III, Chapter 301, Section 4006 of the U.S. Code and shall not exceed the lesser of Medicare reimbursement rates unless explicitly authorized. Dental services are reimbursed at the 90% Usual and Customary Reimbursement (UCR) rate. IHSC will make payments for authorized services directly to the health care provider who provided those services.

(3) Coverage – When Coverage Begins and Ends:

- a. Coverage through IHSC is effective on the first day that the individual is placed in the custody of Immigration Customs Enforcement Removal Operations (ICE/ERO), Homeland Security Investigations (HSI), or Customs Border Protection (CBP)/Border Patrol (BP). Coverage ends on the day that the detainee is released from the custody of ICE/HSI/CBP/BP.

(4) Deductibles and Co-Payments:

- a. Authorized medically necessary and appropriate medical, dental, mental health services, durable medical equipment and related supplies are provided at government expense. The detainee has no responsibility for payment, deductible or co-payment.

(5) Covered Services

- a. The IHSC Covered Services Package describes health care services available to ICE detainees. Please refer to the current version available at

(b)(7)(E)

(6) Denials

- a. FMCs/MCCs do not deny services. Only Regional Clinical Directors, dental consultants or Deputy Assistant Director for Medical Services deny requested services.

4-6. Durable Medical Equipment (DME)

- a. FMCs/MCCs address DME requests for detainees housed in ICE custody. The FMCs/MCCs collaborate with the Provider Relations Liaison regarding these types of requests.

4-7. Script Care

- a. IHSC provides limited prescription drug coverage for individuals in ICE custody. Prescriptions are filled at local pharmacies or through mail order pharmacies which are part of the Script Care Network.
- b. FMCs assist detention facilities, as needed, with these requests.

4-8. Detainee Death

- a. In the event of a detainee death while in ICE custody, MCMU staff follow ICE and IHSC directives.

4-9. Significant Detainee Illness (SDI)

- a. IHSC Headquarters (HQ) medical staff oversees and manages the SDI list which was created to identify detainees that have a significant medical/mental health illness and to facilitate communication between IHSC and ERO HQ staff regarding the medical status, custody status, disposition, and plan of care for these detainees. This list also serves as a vehicle through which IHSC HQ staff can inform ERO HQ staff and the Office of Principal Legal Advisor (OPLA) of significant medical/mental health cases and ICE can prioritize and facilitate a legal resolution regarding the detainees' custody cases.
- b. FMCs/RFMCs may identify cases which may be included on the SDI and route the information to the RCD/DAD for consideration.
- c. MCCs provide updates regarding medical cases on the SDI list during weekly meetings at ICE HQ.

4-10. Significant Event Notification (SEN)

- a. The SEN is an intranet/web-enabled reporting application that was designed and developed by ICE to provide timely information to ICE HQ managers on momentous or notable incidents, events, or activities that involve or impact ICE agents and staff in the field in carrying out their law enforcement missions.
- b. IHSC MCMU receives SEN reports related to ICE detainees from the field through ERO HQ and refers the reports to the appropriate IHSC staff members for follow-up and updates.

4-11. Translation Services

- a. [Executive Order 13166](#) "Improving Access to Services for Persons with Limited English Proficiency (LEP)," 65 FR 50121 (Aug. 11, 2000) requires DHS to take reasonable steps to provide meaningful access to individuals with LEP in operations, services, and activities to support the five Homeland Security mission areas. Therefore, ICE has identified several resources for ERO staff to access translation and interpreting services when encountering persons with LEP. ERO has been working with U.S. Department of Homeland Security (DHS) Office for Civil Rights and Civil Liberties (CRCL) to establish further policy, procedures and resources to support this effort. CRCL is responsible for providing DHS guidance and oversight on implementing the provisions of Executive Order 13166. ICE maintains an interagency agreement for language access resources with the

Citizenship and Immigration Service, Language Services Section (LSS). Interpreting and translation services are obtainable based on availability.

Anyone interacting with ICE detainees may utilize these services including IGSA staff and off-site consultant providers if needed. For off-site consultants, it is required that the facility contact LSS prior to the appointment to ensure the language will be available at a specific time.

5. **PROCEDURES:** The procedures related to this directive are found in the Medical Case Management Unit Program Guide, Section 4, *Off-Site Medical Care Monitoring and Case Management*

6. **HISTORICAL NOTES:** This directive is newly created and does not replace previous directives.

7. **DEFINITIONS:**

Field Medical Coordinator (FMC) – FMCs operate within the Medical Case Management Unit and are co-located with the Field Office Directors (FODs). The FMC identifies and monitors detainees with significant medical conditions, performs case monitoring on detainees who are hospitalized, and assists with alternate placement of detainees in IGSA facilities. He or she gathers information and documents for medical reviews and collaborates with appropriate health officials to ensure continuity of care upon removal for those detainees with significant health conditions. (IHSC Operational Definition)

Health Care Personnel or Providers – Health care personnel or providers are credentialed individuals employed, detailed, or authorized by IHSC to deliver health care services to detainees. It includes federal and contract staff assigned or detailed (i.e. temporary duty) who provide professional or paraprofessional health care services as part of their IHSC duties. (IHSC Operational Definition)

Managed Care Coordinator (MCC) – Member of the Medical Case Management Unit (MCMU) who conducts various duties including Medical Payment Authorization Request (MedPAR) adjudication, SEN report triage, segregation reporting, managing Significant Detainee Illness (SDI) lists, and other duties as assigned.

8. **APPLICABLE STANDARDS:**

8-1. Performance Based National Detention Standards (PBNDS):

- a. 4.2 *Hunger Strikes*
- b. 4.3 *Medical Care*

- c. 4.4 *Medical Care (Women)*
- d. 4.6 *Self-harm and Suicide Prevention and Intervention*
- e. 4.7 *Terminal Illness, Advance Directives and Death*

8-2. American Correctional Association (ACA):

- a. Performance-Based Standards for Adult Local Detention Facilities, 4th edition
 - (1) 4-ALDF-4C-01: *Access to Care*
 - (2) 4-ALDF-4C-04: *Continuity of Care*
 - (3) 4-ALDF-4C-05: *Referrals*
 - (4) 4-ALDF-4C-13: *Pregnancy Management*
 - (5) 4-ALDF-4C-14, 4-ALDF-4C-15, 4-ALDF-4C-16, 4-ALDF-4C-17: *Communicable Disease and Infection Control Program*
 - (6) 4-ALDF-4C-19: *Chronic Care*
 - (7) 4-ALDF-4C-20: *Dental Care*
 - (8) 4-ALDF-4C-32: *Suicide Prevention and Intervention*
 - (9) 4-ALDF-4C-35: *Prostheses and Orthodontic Devices*
 - (10) 4-ALDF-4C-38: *Pharmaceuticals*
 - (11) 4-ALDF-4D-23: *Inmate Death*
- b. Standards for Adult Correctional Institutions, 4th edition
 - (1) 4-4344: *Access to Care*
 - (2) 4-4347: *Continuity of Care*
 - (3) 4-4348: *Referrals*
 - (4) 4-4353: *Pregnancy Management*

(5) 4-4354, 4-4355, 4-4356, 4-4357: *Communicable Disease and Infection Control Program*

(6) 4-4359: *Chronic Care*

(7) 4-4360: *Dental Care*

(8) 4-4373: *Suicide Prevention and Intervention*

(9) 4-4375: *Prostheses and Orthodontic Devices*

(10) 4-4378: *Pharmaceuticals*

(11) 4-4425: *Offender's Death*

8-3. National Commission on Correctional Health Care (NCCHC):

a. Standards for Health Services in Jails, 2014

(1) J-A-01: *Access to Care*

(2) J-A-10: *Procedure in the Event of an Inmate Death*

(3) J-B-01: *Infection Control Program*

(4) J-D-01: *Pharmaceutical Operations*

(5) J-E-12: *Continuity of Care During Incarceration*

(6) J-E-13: *Discharge Planning*

(7) J-G-05: *Suicide Prevention Program*

(8) J-G-09: *Pregnancy Counseling*

(9) J-G-10: *Aids to Impairment*

(10) J-G-11: *Care for the Terminally Ill*